

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

GS HOLISTIC, LLC,

Plaintiff,

v.

MITCHELL & MITCHELL
ENTERPRISES, INC., et al.,

Defendants.

CASE NO. C23-5214JLR

ORDER

Before the court is Plaintiff GS Holistic, LLC's ("GS Holistic") second motion for an extension of time to perfect service on Defendant Rozalynn Fernandez. (Mot. (Dkt. # 14); *see* 6/13/23 Order (Dkt. # 3) (finding that GS Holistic had not demonstrated good cause for its failure to serve Ms. Fernandez before the 90-day deadline set forth in Federal Rule of Civil Procedure 4(m) but nevertheless granting a 60-day extension of the service deadline).) The court GRANTS GS Holistic's motion.

Federal Rule of Civil Procedure 4 requires a plaintiff to serve the defendant with a

1 summons and a copy of the complaint and sets forth the specific requirements for doing
2 so. *See* Fed. R. Civ. P. 4. Rule 4(m), which provides the timeframe in which service
3 must be effectuated, states in relevant part:

4 If a defendant is not served within 90 days after the complaint is filed, the
5 court—on motion or on its own after notice to the plaintiff—must dismiss
6 the action without prejudice against that defendant or order that service be
7 made within a specified time. But if the plaintiff shows good cause for the
8 failure, the court must extend the time for service for an appropriate period.

7 *Id.*

8 GS Holistic filed this action on March 14, 2023. (Compl. (Dkt. # 1).) As a result,
9 Rule 4(m)’s 90-day deadline for effectuating service of process expired on June 12, 2023.
10 Fed. R. Civ. P. 4(m). On June 13, 2023, the court granted GS Holistic’s first motion for a
11 60-day extension of the deadline to serve Ms. Fernandez, despite finding that GS Holistic
12 had not demonstrated good cause for its failure to effectuate service before the Rule 4(m)
13 deadline. (6/13/23 Order at 2-3.) The court ordered GS Holistic to file proof of service
14 on Ms. Fernandez by no later than August 11, 2023, and warned GS Holistic that
15 (1) failure to do so could result in dismissal without prejudice of its claims against Ms.
16 Fernandez and (2) further extensions of the deadline to serve Ms. Fernandez would not be
17 granted absent exceptional circumstances. (*Id.* at 2-3.)

18 GS Holistic represents that its process server attempted to serve Ms. Fernandez
19 “multiple times” but was unsuccessful. (Mot. ¶ 3.) GS Holistic does not, however,
20 provide a declaration of non-service to substantiate when and how its process server
21 attempted service. (*See id.*) GS Holistic also states that skip traces that it performed on
22 Ms. Fernandez only identified addresses that it had used for previous attempts to serve

1 her. (*Id.* ¶ 4.) GS Holistic further represents that it asked its process server to “keep
2 attempting service” and that it believes that Ms. Fernandez is avoiding service. (*Id.* ¶¶ 3,
3 5.) GS Holistic now asks the court to extend the Rule 4(m) deadline by an additional 30
4 days to allow it to perfect service on Ms. Fernandez “either personally or by publication.”
5 (*Id.* ¶ 7.)

6 The court has reviewed the materials that GS Holistic filed in support of its second
7 motion for an extension of time to perfect service and concludes that GS Holistic has not
8 established exceptional circumstances, let alone good cause, that would justify a further
9 extension of time. (*See* 6/13/23 Order); Fed. R. Civ. P. 4(m). In particular, the court
10 notes that GS Holistic has not provided any substantiation of its efforts to serve Ms.
11 Fernandez, such as declarations of non-service. (*See generally* Mot.) This lack of
12 substantiation prevents the court from evaluating the efforts GS Holistic has made to
13 serve Ms. Fernandez since the court issued its June 13, 2023 order. Nevertheless, the
14 court will GRANT GS Holistic’s motion (Dkt. # 14) and extend the deadline for GS
15 Holistic to perfect service on Ms. Fernandez for an additional **30** days. GS Holistic shall
16 file proof of service on Ms. Fernandez by no later than **September 11, 2023**. This order
17 does not grant GS Holistic leave to serve Ms. Fernandez by publication or by any other
18 means. Failure to timely file proof of service will result in the dismissal without

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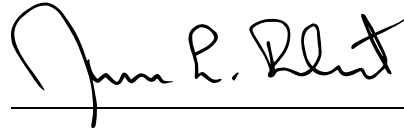
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1 prejudice of GS Holistic's claims against Ms. Fernandez. No further extensions of the
2 deadline to serve Ms. Fernandez will be granted.

3 Dated this 17th day of August, 2023.

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6 JAMES L. ROBART
7 United States District Judge
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